

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Article 1.

5 Section 1-5. The Illinois Human Rights Act is amended by
6 changing Section 1-103 and by adding Section 2-103.1 as
7 follows:

8 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

9 Sec. 1-103. General definitions. When used in this Act,
10 unless the context requires otherwise, the term:

11 (A) Age. "Age" means the chronological age of a person who
12 is at least 40 years old, except with regard to any practice
13 described in Section 2-102, insofar as that practice concerns
14 training or apprenticeship programs. In the case of training or
15 apprenticeship programs, for the purposes of Section 2-102,
16 "age" means the chronological age of a person who is 18 but not
17 yet 40 years old.

18 (B) Aggrieved party. "Aggrieved party" means a person who
19 is alleged or proved to have been injured by a civil rights
20 violation or believes he or she will be injured by a civil
21 rights violation under Article 3 that is about to occur.

22 (B-5) Arrest record. "Arrest record" means:

1 (1) an arrest not leading to a conviction;

2 (2) a juvenile record; or

3 (3) criminal history record information ordered
4 expunged, sealed, or impounded under Section 5.2 of the
5 Criminal Identification Act.

6 (C) Charge. "Charge" means an allegation filed with the
7 Department by an aggrieved party or initiated by the Department
8 under its authority.

9 (D) Civil rights violation. "Civil rights violation"
10 includes and shall be limited to only those specific acts set
11 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-102.1, 3-103,
12 3-104, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102, 5A-102,
13 6-101, and 6-102 of this Act.

14 (E) Commission. "Commission" means the Human Rights
15 Commission created by this Act.

16 (F) Complaint. "Complaint" means the formal pleading filed
17 by the Department with the Commission following an
18 investigation and finding of substantial evidence of a civil
19 rights violation.

20 (G) Complainant. "Complainant" means a person including
21 the Department who files a charge of civil rights violation
22 with the Department or the Commission.

23 (G-5) Conviction record. "Conviction record" means
24 information indicating that a person has been convicted of a
25 felony, misdemeanor or other criminal offense, placed on
26 probation, fined, imprisoned, or paroled pursuant to any law

1 enforcement or military authority.

2 (H) Department. "Department" means the Department of Human
3 Rights created by this Act.

4 (I) Disability. "Disability" means a determinable physical
5 or mental characteristic of a person, including, but not
6 limited to, a determinable physical characteristic which
7 necessitates the person's use of a guide, hearing or support
8 dog, the history of such characteristic, or the perception of
9 such characteristic by the person complained against, which may
10 result from disease, injury, congenital condition of birth or
11 functional disorder and which characteristic:

12 (1) For purposes of Article 2, is unrelated to the
13 person's ability to perform the duties of a particular job
14 or position and, pursuant to Section 2-104 of this Act, a
15 person's illegal use of drugs or alcohol is not a
16 disability;

17 (2) For purposes of Article 3, is unrelated to the
18 person's ability to acquire, rent, or maintain a housing
19 accommodation;

20 (3) For purposes of Article 4, is unrelated to a
21 person's ability to repay;

22 (4) For purposes of Article 5, is unrelated to a
23 person's ability to utilize and benefit from a place of
24 public accommodation;

25 (5) For purposes of Article 5, also includes any
26 mental, psychological, or developmental disability,

1 including autism spectrum disorders.

2 (J) Marital status. "Marital status" means the legal status
3 of being married, single, separated, divorced, or widowed.

4 (J-1) Military status. "Military status" means a person's
5 status on active duty in or status as a veteran of the armed
6 forces of the United States, status as a current member or
7 veteran of any reserve component of the armed forces of the
8 United States, including the United States Army Reserve, United
9 States Marine Corps Reserve, United States Navy Reserve, United
10 States Air Force Reserve, and United States Coast Guard
11 Reserve, or status as a current member or veteran of the
12 Illinois Army National Guard or Illinois Air National Guard.

13 (K) National origin. "National origin" means the place in
14 which a person or one of his or her ancestors was born.

15 (K-5) "Order of protection status" means a person's status
16 as being a person protected under an order of protection issued
17 pursuant to the Illinois Domestic Violence Act of 1986, Article
18 112A of the Code of Criminal Procedure of 1963, the Stalking No
19 Contact Order Act, or the Civil No Contact Order Act, or an
20 order of protection issued by a court of another state.

21 (L) Person. "Person" includes one or more individuals,
22 partnerships, associations or organizations, labor
23 organizations, labor unions, joint apprenticeship committees,
24 or union labor associations, corporations, the State of
25 Illinois and its instrumentalities, political subdivisions,
26 units of local government, legal representatives, trustees in

1 bankruptcy or receivers.

2 (L-5) Pregnancy. "Pregnancy" means pregnancy, childbirth,
3 or medical or common conditions related to pregnancy or
4 childbirth.

5 (M) Public contract. "Public contract" includes every
6 contract to which the State, any of its political subdivisions,
7 or any municipal corporation is a party.

8 (N) Religion. "Religion" includes all aspects of religious
9 observance and practice, as well as belief, except that with
10 respect to employers, for the purposes of Article 2, "religion"
11 has the meaning ascribed to it in paragraph (F) of Section
12 2-101.

13 (O) Sex. "Sex" means the status of being male or female.

14 (O-1) Sexual orientation. "Sexual orientation" means
15 actual or perceived heterosexuality, homosexuality,
16 bisexuality, or gender-related identity, whether or not
17 traditionally associated with the person's designated sex at
18 birth. "Sexual orientation" does not include a physical or
19 sexual attraction to a minor by an adult.

20 (P) Unfavorable military discharge. "Unfavorable military
21 discharge" includes discharges from the Armed Forces of the
22 United States, their Reserve components, or any National Guard
23 or Naval Militia which are classified as RE-3 or the equivalent
24 thereof, but does not include those characterized as RE-4 or
25 "Dishonorable".

26 (Q) Unlawful discrimination. "Unlawful discrimination"

1 means discrimination against a person because of his or her
2 actual or perceived: race, color, religion, national origin,
3 ancestry, age, sex, marital status, order of protection status,
4 disability, military status, sexual orientation, pregnancy, or
5 unfavorable discharge from military service as those terms are
6 defined in this Section.

7 (Source: P.A. 100-714, eff. 1-1-19; 101-81, eff. 7-12-19;
8 101-221, eff. 1-1-20; 101-565, eff. 1-1-20; revised 9-18-19.)

9 (775 ILCS 5/2-103.1 new)

10 Sec. 2-103.1. Conviction record.

11 (A) Unless otherwise authorized by law, it is a civil
12 rights violation for any employer, employment agency or labor
13 organization to use a conviction record, as defined under
14 subsection (G-5) of Section 1-103, as a basis to refuse to
15 hire, to segregate, or to act with respect to recruitment,
16 hiring, promotion, renewal of employment, selection for
17 training or apprenticeship, discharge, discipline, tenure or
18 terms, privileges or conditions of employment (whether
19 "disqualification" or "adverse action"), unless:

20 (1) there is a substantial relationship between one or
21 more of the previous criminal offenses and the employment
22 sought or held; or

23 (2) the granting or continuation of the employment
24 would involve an unreasonable risk to property or to the
25 safety or welfare of specific individuals or the general

1 public.

2 For the purposes of this subsection (A), "substantial
3 relationship" means a consideration of whether the employment
4 position offers the opportunity for the same or a similar
5 offense to occur and whether the circumstances leading to the
6 conduct for which the person was convicted will recur in the
7 employment position.

8 (B) Factors considered. In making a determination pursuant
9 to subsection (A), the employer shall consider the following
10 factors:

11 (1) the length of time since the conviction;

12 (2) the number of convictions that appear on the
13 conviction record;

14 (3) the nature and severity of the conviction and its
15 relationship to the safety and security of others;

16 (4) the facts or circumstances surrounding the
17 conviction;

18 (5) the age of the employee at the time of the
19 conviction; and

20 (6) evidence of rehabilitation efforts.

21 (C) Interactive assessment required for disqualifying
22 conviction. If, after considering the mitigating factors in
23 subsection (B), the employer makes a preliminary decision that
24 the employee's conviction record disqualifies the employee,
25 the employer shall notify the employee of this preliminary
26 decision in writing.

1 (1) Notification. The notification shall contain all
2 of the following:

3 (a) notice of the disqualifying conviction or
4 convictions that are the basis for the preliminary
5 decision and the employer's reasoning for the
6 disqualification;

7 (b) a copy of the conviction history report, if
8 any; and

9 (c) an explanation of the employee's right to
10 respond to the notice of the employer's preliminary
11 decision before that decision becomes final. The
12 explanation shall inform the employee that the
13 response may include, but is not limited to, submission
14 of evidence challenging the accuracy of the conviction
15 record that is the basis for the disqualification, or
16 evidence in mitigation, such as rehabilitation.

17 (2) Employee response. The employee shall have at least
18 5 business days to respond to the notification provided to
19 the employee before the employer may make a final decision.

20 (3) Final decision. The employer shall consider
21 information submitted by the employee before making a final
22 decision. If an employer makes a final decision to
23 disqualify or take an adverse action solely or in part
24 because of the employee's conviction record, the employer
25 shall notify the employee in writing of the following:

26 (a) notice of the disqualifying conviction or

1 convictions that are the basis for the final decision
2 and the employer's reasoning for the disqualification;

3 (b) any existing procedure the employer has for the
4 employee to challenge the decision or request
5 reconsideration; and

6 (c) the right to file a charge with the Department.

7 Article 5.

8 Section 5-5. The Business Corporation Act of 1983 is
9 amended by changing Section 14.05 as follows:

10 (805 ILCS 5/14.05) (from Ch. 32, par. 14.05)

11 Sec. 14.05. Annual report of domestic or foreign
12 corporation. Each domestic corporation organized under any
13 general law or special act of this State authorizing the
14 corporation to issue shares, other than homestead
15 associations, building and loan associations, banks and
16 insurance companies (which includes a syndicate or limited
17 syndicate regulated under Article V 1/2 of the Illinois
18 Insurance Code or member of a group of underwriters regulated
19 under Article V of that Code), and each foreign corporation
20 (except members of a group of underwriters regulated under
21 Article V of the Illinois Insurance Code) authorized to
22 transact business in this State, shall file, within the time
23 prescribed by this Act, an annual report setting forth:

1 (a) The name of the corporation.

2 (b) The address, including street and number, or rural
3 route number, of its registered office in this State, and
4 the name of its registered agent at that address.

5 (c) The address, including street and number, or rural
6 route number, of its principal office.

7 (d) The names and respective addresses, including
8 street and number, or rural route number, of its directors
9 and officers.

10 (e) A statement of the aggregate number of shares which
11 the corporation has authority to issue, itemized by classes
12 and series, if any, within a class.

13 (f) A statement of the aggregate number of issued
14 shares, itemized by classes, and series, if any, within a
15 class.

16 (g) A statement, expressed in dollars, of the amount of
17 paid-in capital of the corporation as defined in this Act.

18 (h) Either a statement that (1) all the property of the
19 corporation is located in this State and all of its
20 business is transacted at or from places of business in
21 this State, or the corporation elects to pay the annual
22 franchise tax on the basis of its entire paid-in capital,
23 or (2) a statement, expressed in dollars, of the value of
24 all the property owned by the corporation, wherever
25 located, and the value of the property located within this
26 State, and a statement, expressed in dollars, of the gross

1 amount of business transacted by the corporation and the
2 gross amount thereof transacted by the corporation at or
3 from places of business in this State as of the close of
4 its fiscal year on or immediately preceding the last day of
5 the third month prior to the anniversary month or in the
6 case of a corporation which has established an extended
7 filing month, as of the close of its fiscal year on or
8 immediately preceding the last day of the third month prior
9 to the extended filing month; however, in the case of a
10 domestic corporation that has not completed its first
11 fiscal year, the statement with respect to property owned
12 shall be as of the last day of the third month preceding
13 the anniversary month and the statement with respect to
14 business transacted shall be furnished for the period
15 between the date of incorporation and the last day of the
16 third month preceding the anniversary month. In the case of
17 a foreign corporation that has not been authorized to
18 transact business in this State for a period of 12 months
19 and has not commenced transacting business prior to
20 obtaining authority, the statement with respect to
21 property owned shall be as of the last day of the third
22 month preceding the anniversary month and the statement
23 with respect to business transacted shall be furnished for
24 the period between the date of its authorization to
25 transact business in this State and the last day of the
26 third month preceding the anniversary month. If the data

1 referenced in item (2) of this subsection is not completed,
2 the franchise tax provided for in this Act shall be
3 computed on the basis of the entire paid-in capital.

4 (i) A statement, including the basis therefor, of
5 status as a "minority-owned business" or as a "women-owned
6 business" as those terms are defined in the Business
7 Enterprise for Minorities, Women, and Persons with
8 Disabilities Act.

9 (j) Additional information as may be necessary or
10 appropriate in order to enable the Secretary of State to
11 administer this Act and to verify the proper amount of fees
12 and franchise taxes payable by the corporation.

13 (k) A statement of whether the corporation or foreign
14 corporation has outstanding shares listed on a major United
15 States stock exchange and is thereby subject to the
16 reporting requirements of Section 8.12.

17 (l) For those corporations subject to Section 8.12, a
18 statement providing the information required under Section
19 8.12.

20 (m) For those corporations required to file an Employer
21 Information Report EEO-1 with the Equal Employment
22 Opportunity Commission, information that is substantially
23 similar to the employment data reported under Section D of
24 the corporation's EEO-1 in a format approved by the
25 Secretary of State. For each corporation that submits data
26 under this paragraph, the Secretary of State shall publish

1 the data on the gender, race, and ethnicity of each
2 corporation's employees on the Secretary of State's
3 official website. The Secretary of State shall publish such
4 information within 90 days of receipt of a properly filed
5 annual report or as soon thereafter as practicable.

6 The annual report shall be made on forms prescribed and
7 furnished by the Secretary of State, and the information
8 therein required by paragraphs (a) through (d), both inclusive,
9 of this Section, shall be given as of the date of the execution
10 of the annual report and the information therein required by
11 paragraphs (e), (f), and (g) of this Section shall be given as
12 of the last day of the third month preceding the anniversary
13 month, except that the information required by paragraphs (e),
14 (f), and (g) shall, in the case of a corporation which has
15 established an extended filing month, be given in its final
16 transition annual report and each subsequent annual report as
17 of the close of its fiscal year on or immediately preceding the
18 last day of the third month prior to its extended filing month.
19 The information required by paragraph (m) shall be included in
20 the corporation's annual report filed on and after January 1,
21 2023. It shall be executed by the corporation by its president,
22 a vice-president, secretary, assistant secretary, treasurer or
23 other officer duly authorized by the board of directors of the
24 corporation to execute those reports, and verified by him or
25 her, or, if the corporation is in the hands of a receiver or
26 trustee, it shall be executed on behalf of the corporation and

1 verified by the receiver or trustee.

2 (Source: P.A. 100-391, eff. 8-25-17; 100-486, eff. 1-1-18;
3 100-863, eff. 8-14-18; 101-589, eff. 8-27-19.)

4 Article 10.

5 Section 10-1. The Freedom of Information Act is amended by
6 changing Section 7.5 as follows:

7 (5 ILCS 140/7.5)

8 Sec. 7.5. Statutory exemptions. To the extent provided for
9 by the statutes referenced below, the following shall be exempt
10 from inspection and copying:

11 (a) All information determined to be confidential
12 under Section 4002 of the Technology Advancement and
13 Development Act.

14 (b) Library circulation and order records identifying
15 library users with specific materials under the Library
16 Records Confidentiality Act.

17 (c) Applications, related documents, and medical
18 records received by the Experimental Organ Transplantation
19 Procedures Board and any and all documents or other records
20 prepared by the Experimental Organ Transplantation
21 Procedures Board or its staff relating to applications it
22 has received.

23 (d) Information and records held by the Department of

1 Public Health and its authorized representatives relating
2 to known or suspected cases of sexually transmissible
3 disease or any information the disclosure of which is
4 restricted under the Illinois Sexually Transmissible
5 Disease Control Act.

6 (e) Information the disclosure of which is exempted
7 under Section 30 of the Radon Industry Licensing Act.

8 (f) Firm performance evaluations under Section 55 of
9 the Architectural, Engineering, and Land Surveying
10 Qualifications Based Selection Act.

11 (g) Information the disclosure of which is restricted
12 and exempted under Section 50 of the Illinois Prepaid
13 Tuition Act.

14 (h) Information the disclosure of which is exempted
15 under the State Officials and Employees Ethics Act, and
16 records of any lawfully created State or local inspector
17 general's office that would be exempt if created or
18 obtained by an Executive Inspector General's office under
19 that Act.

20 (i) Information contained in a local emergency energy
21 plan submitted to a municipality in accordance with a local
22 emergency energy plan ordinance that is adopted under
23 Section 11-21.5-5 of the Illinois Municipal Code.

24 (j) Information and data concerning the distribution
25 of surcharge moneys collected and remitted by carriers
26 under the Emergency Telephone System Act.

1 (k) Law enforcement officer identification information
2 or driver identification information compiled by a law
3 enforcement agency or the Department of Transportation
4 under Section 11-212 of the Illinois Vehicle Code.

5 (l) Records and information provided to a residential
6 health care facility resident sexual assault and death
7 review team or the Executive Council under the Abuse
8 Prevention Review Team Act.

9 (m) Information provided to the predatory lending
10 database created pursuant to Article 3 of the Residential
11 Real Property Disclosure Act, except to the extent
12 authorized under that Article.

13 (n) Defense budgets and petitions for certification of
14 compensation and expenses for court appointed trial
15 counsel as provided under Sections 10 and 15 of the Capital
16 Crimes Litigation Act. This subsection (n) shall apply
17 until the conclusion of the trial of the case, even if the
18 prosecution chooses not to pursue the death penalty prior
19 to trial or sentencing.

20 (o) Information that is prohibited from being
21 disclosed under Section 4 of the Illinois Health and
22 Hazardous Substances Registry Act.

23 (p) Security portions of system safety program plans,
24 investigation reports, surveys, schedules, lists, data, or
25 information compiled, collected, or prepared by or for the
26 Regional Transportation Authority under Section 2.11 of

1 the Regional Transportation Authority Act or the St. Clair
2 County Transit District under the Bi-State Transit Safety
3 Act.

4 (q) Information prohibited from being disclosed by the
5 Personnel Record Review Act.

6 (r) Information prohibited from being disclosed by the
7 Illinois School Student Records Act.

8 (s) Information the disclosure of which is restricted
9 under Section 5-108 of the Public Utilities Act.

10 (t) All identified or deidentified health information
11 in the form of health data or medical records contained in,
12 stored in, submitted to, transferred by, or released from
13 the Illinois Health Information Exchange, and identified
14 or deidentified health information in the form of health
15 data and medical records of the Illinois Health Information
16 Exchange in the possession of the Illinois Health
17 Information Exchange Office due to its administration of
18 the Illinois Health Information Exchange. The terms
19 "identified" and "deidentified" shall be given the same
20 meaning as in the Health Insurance Portability and
21 Accountability Act of 1996, Public Law 104-191, or any
22 subsequent amendments thereto, and any regulations
23 promulgated thereunder.

24 (u) Records and information provided to an independent
25 team of experts under the Developmental Disability and
26 Mental Health Safety Act (also known as Brian's Law).

1 (v) Names and information of people who have applied
2 for or received Firearm Owner's Identification Cards under
3 the Firearm Owners Identification Card Act or applied for
4 or received a concealed carry license under the Firearm
5 Concealed Carry Act, unless otherwise authorized by the
6 Firearm Concealed Carry Act; and databases under the
7 Firearm Concealed Carry Act, records of the Concealed Carry
8 Licensing Review Board under the Firearm Concealed Carry
9 Act, and law enforcement agency objections under the
10 Firearm Concealed Carry Act.

11 (w) Personally identifiable information which is
12 exempted from disclosure under subsection (g) of Section
13 19.1 of the Toll Highway Act.

14 (x) Information which is exempted from disclosure
15 under Section 5-1014.3 of the Counties Code or Section
16 8-11-21 of the Illinois Municipal Code.

17 (y) Confidential information under the Adult
18 Protective Services Act and its predecessor enabling
19 statute, the Elder Abuse and Neglect Act, including
20 information about the identity and administrative finding
21 against any caregiver of a verified and substantiated
22 decision of abuse, neglect, or financial exploitation of an
23 eligible adult maintained in the Registry established
24 under Section 7.5 of the Adult Protective Services Act.

25 (z) Records and information provided to a fatality
26 review team or the Illinois Fatality Review Team Advisory

1 Council under Section 15 of the Adult Protective Services
2 Act.

3 (aa) Information which is exempted from disclosure
4 under Section 2.37 of the Wildlife Code.

5 (bb) Information which is or was prohibited from
6 disclosure by the Juvenile Court Act of 1987.

7 (cc) Recordings made under the Law Enforcement
8 Officer-Worn Body Camera Act, except to the extent
9 authorized under that Act.

10 (dd) Information that is prohibited from being
11 disclosed under Section 45 of the Condominium and Common
12 Interest Community Ombudsperson Act.

13 (ee) Information that is exempted from disclosure
14 under Section 30.1 of the Pharmacy Practice Act.

15 (ff) Information that is exempted from disclosure
16 under the Revised Uniform Unclaimed Property Act.

17 (gg) Information that is prohibited from being
18 disclosed under Section 7-603.5 of the Illinois Vehicle
19 Code.

20 (hh) Records that are exempt from disclosure under
21 Section 1A-16.7 of the Election Code.

22 (ii) Information which is exempted from disclosure
23 under Section 2505-800 of the Department of Revenue Law of
24 the Civil Administrative Code of Illinois.

25 (jj) Information and reports that are required to be
26 submitted to the Department of Labor by registering day and

1 temporary labor service agencies but are exempt from
2 disclosure under subsection (a-1) of Section 45 of the Day
3 and Temporary Labor Services Act.

4 (kk) Information prohibited from disclosure under the
5 Seizure and Forfeiture Reporting Act.

6 (ll) Information the disclosure of which is restricted
7 and exempted under Section 5-30.8 of the Illinois Public
8 Aid Code.

9 (mm) Records that are exempt from disclosure under
10 Section 4.2 of the Crime Victims Compensation Act.

11 (nn) Information that is exempt from disclosure under
12 Section 70 of the Higher Education Student Assistance Act.

13 (oo) Communications, notes, records, and reports
14 arising out of a peer support counseling session prohibited
15 from disclosure under the First Responders Suicide
16 Prevention Act.

17 (pp) Names and all identifying information relating to
18 an employee of an emergency services provider or law
19 enforcement agency under the First Responders Suicide
20 Prevention Act.

21 (qq) Information and records held by the Department of
22 Public Health and its authorized representatives collected
23 under the Reproductive Health Act.

24 (rr) Information that is exempt from disclosure under
25 the Cannabis Regulation and Tax Act.

26 (ss) Data reported by an employer to the Department of

1 Human Rights pursuant to Section 2-108 of the Illinois
2 Human Rights Act.

3 (tt) Recordings made under the Children's Advocacy
4 Center Act, except to the extent authorized under that Act.

5 (uu) Information that is exempt from disclosure under
6 Section 50 of the Sexual Assault Evidence Submission Act.

7 (vv) Information that is exempt from disclosure under
8 subsections (f) and (j) of Section 5-36 of the Illinois
9 Public Aid Code.

10 (ww) Information that is exempt from disclosure under
11 Section 16.8 of the State Treasurer Act.

12 (xx) Information that is exempt from disclosure or
13 information that shall not be made public under the
14 Illinois Insurance Code.

15 (yy) Information prohibited from being disclosed under
16 the Illinois Educational Labor Relations Act.

17 (zz) Information prohibited from being disclosed under
18 the Illinois Public Labor Relations Act.

19 (aaa) Information prohibited from being disclosed
20 under Section 1-167 of the Illinois Pension Code.

21 (bbb) Information that is exempt from disclosure under
22 subsection (k) of Section 11 of the Equal Pay Act of 2003.

23 (Source: P.A. 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;
24 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.
25 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,
26 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;

1 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; 101-13, eff.
2 6-12-19; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-221,
3 eff. 1-1-20; 101-236, eff. 1-1-20; 101-375, eff. 8-16-19;
4 101-377, eff. 8-16-19; 101-452, eff. 1-1-20; 101-466, eff.
5 1-1-20; 101-600, eff. 12-6-19; 101-620, eff 12-20-19; 101-649,
6 eff. 7-7-20.)

7 Section 10-5. The State Finance Act is amended by adding
8 Section 5.935 as follows:

9 (30 ILCS 105/5.935 new)

10 Sec. 5.935. The Equal Pay Registration Fund.

11 Section 10-10. The Equal Pay Act of 2003 is amended by
12 adding Section 11 as follows:

13 (820 ILCS 112/11 new)

14 Sec. 11. Equal pay registration certificate requirements;
15 application.

16 For the purposes of this Section 11 only, "business" means
17 any private employer who has more than 100 employees in the
18 State of Illinois, and does not include the State of Illinois
19 or any political subdivision, municipal corporation, or other
20 governmental unit or agency.

21 (a) A business must obtain an equal pay registration
22 certificate from the Department or certify in writing that it

1 is exempt.

2 (b) Any business subject to the requirements of this
3 Section that is authorized to transact business in this State
4 on the effective date of this amendatory Act of the 101st
5 General Assembly must obtain an equal pay registration
6 certificate within 3 years after the effective date of this
7 amendatory Act of the 101st General Assembly and must recertify
8 every 2 years thereafter. Any business subject to the
9 requirements of this Section that is authorized to transact
10 business in this State after the effective date of this
11 amendatory Act of the 101st General Assembly must obtain an
12 equal pay registration certificate within 3 years of commencing
13 business operations and must recertify every 2 years
14 thereafter.

15 (c) Application.

16 (1) A business shall apply for an equal pay
17 registration certificate by paying a \$150 filing fee and
18 submitting an equal pay compliance statement to the
19 Director. Any business that is required to file an annual
20 Employer Information Report EEO-1 with the Equal
21 Employment Opportunity Commission must also submit to the
22 Director a copy of the business's most recently filed
23 Employer Information Report EEO-1 for each county in which
24 the business has a facility or employees. The business
25 shall also compile, from records maintained and available,
26 a list of all employees during the past calendar year,

1 separated by gender and the race and ethnicity categories
2 as reported in the business's most recently filed Employer
3 Information Report EEO-1, and report the total wages as
4 defined by Section 2 of the Illinois Wage Payment and
5 Collection Act paid to each employee during the past
6 calendar year, rounded to the nearest hundred dollar, to
7 the Director. The proceeds from the fees collected under
8 this Section shall be deposited into the Equal Pay
9 Registration Fund, a special fund created in the State
10 treasury. Moneys in the Fund shall be appropriated to the
11 Department for the purposes of this Section. The Director
12 shall issue an equal pay registration certificate to a
13 business that submits to the Director a statement signed by
14 a corporate officer, legal counsel, or authorized agent of
15 the business:

16 (A) that the business is in compliance with Title
17 VII of the Civil Rights Act of 1964, the Equal Pay Act
18 of 1963, the Illinois Human Rights Act, the Equal Wage
19 Act, and the Equal Pay Act of 2003;

20 (B) that the average compensation for its female
21 and minority employees is not consistently below the
22 average compensation, as determined by rule by the
23 United States Department of Labor, for its male and
24 non-minority employees within each of the major job
25 categories in the Employer Information Report EEO-1
26 for which an employee is expected to perform work under

1 the contract, taking into account factors such as
2 length of service, requirements of specific jobs,
3 experience, skill, effort, responsibility, working
4 conditions of the job, or other mitigating factors; as
5 used in this subparagraph, "minority" has the meaning
6 ascribed to that term in paragraph (1) of subsection
7 (A) of Section 2 of the Business Enterprise for
8 Minorities, Women, and Persons with Disabilities Act;

9 (C) that the business does not restrict employees
10 of one sex to certain job classifications and makes
11 retention and promotion decisions without regard to
12 sex;

13 (D) that wage and benefit disparities are
14 corrected when identified to ensure compliance with
15 the Acts cited in subparagraph (A) and with
16 subparagraph (B); and

17 (E) how often wages and benefits are evaluated to
18 ensure compliance with the Acts cited in subparagraph
19 (A) and with subparagraph (B).

20 (2) The equal pay compliance statement shall also
21 indicate whether the business, in setting compensation and
22 benefits, utilizes:

23 (A) a market pricing approach;

24 (B) State prevailing wage or union contract
25 requirements;

26 (C) a performance pay system;

1 (D) an internal analysis; or

2 (E) an alternative approach to determine what
3 level of wages and benefits to pay its employees. If
4 the business uses an alternative approach, the
5 business must provide a description of its approach.

6 (3) Receipt of the equal pay compliance statement by
7 the Director does not establish compliance with the Acts
8 set forth in subparagraph (A).

9 A business that has employees in multiple locations or
10 facilities in Illinois shall submit a single application to the
11 Department regarding all of its operations in Illinois.

12 (d) Issuance or rejection of registration certificate. The
13 Director must issue an equal pay registration certificate, or a
14 statement of why the application was rejected, within 45
15 calendar days of receipt of the application. An application may
16 be rejected only if it does not comply with the requirements of
17 subsection (c). The receipt of an application by the
18 Department, or the issuance of a registration certificate by
19 the Department, shall not establish compliance of the Equal Pay
20 Act of 2003 as to all Sections except Section 11. The issuance
21 of a registration certificate shall not be a defense against
22 any Equal Pay Act violation found by the Department, nor a
23 basis for mitigation of damages.

24 (e) Revocation of registration certificate. An equal pay
25 registration certificate for a business may be suspended or
26 revoked by the Director when the business fails to make a good

1 faith effort to comply with the Acts identified in subparagraph
2 (A) of paragraph (1) of subsection (c), fails to make a good
3 faith effort to comply with this Section, or has multiple
4 violations of this Section or the Acts identified in
5 subparagraph (A) of paragraph (1) of subsection (c). Prior to
6 suspending or revoking a registration certificate, the
7 Director must first have sought to conciliate with the business
8 regarding wages and benefits due to employees.

9 The Director, or his or her authorized representative, may
10 interview workers, administer oaths, take or cause to be taken
11 the depositions of witnesses, and require by subpoena the
12 attendance and testimony of witnesses, and the production of
13 all books, records, and other evidence relative to the matter
14 under investigation or hearing. Such subpoena shall be signed
15 and issued by the Director or his or her authorized
16 representative.

17 Upon request by the Director or his or her deputies or
18 agents, records shall be copied and submitted for evidence at
19 no cost to the Department. Every employer upon request shall
20 furnish to the Director or his or her authorized
21 representative, on demand, a sworn statement of the accuracy of
22 the records. Any employer who refuses to furnish a sworn
23 statement of the records is in violation of this Act.

24 In case of failure of any person to comply with any
25 subpoena lawfully issued under this Section or on the refusal
26 of any witness to produce evidence or to testify to any matter

1 regarding which he or she may be lawfully interrogated, it is
2 the duty of any circuit court, upon application of the Director
3 or his or her authorized representative, to compel obedience by
4 proceedings for contempt, as in the case of disobedience of the
5 requirements of a subpoena issued by such court or a refusal to
6 testify therein. The Director may certify to official acts.

7 Neither the Department nor the Director shall be held
8 liable for good faith errors in issuing, denying, suspending or
9 revoking certificates.

10 (f) Administrative review.

11 (1) A business may obtain an administrative hearing in
12 accordance with the Illinois Administrative Procedure Act
13 before the suspension or revocation of its certificate is
14 effective by filing a written request for hearing within 20
15 calendar days after service of notice by the Director.

16 (2) A business may obtain an administrative hearing in
17 accordance with the Illinois Administrative Procedure Act
18 before the contract award entity's abridgement or
19 termination of a contract is effective by filing a written
20 request for a hearing 20 calendar days after service of
21 notice by the contract award entity.

22 (g) Technical assistance. The Director must provide
23 technical assistance to any business that requests assistance
24 regarding this Section.

25 (h) Audit. The Director may audit the business's compliance
26 with this Section. As part of an audit, upon request, a

1 business must provide the Director the following information
2 with respect to employees expected to perform work under the
3 contract in each of the major job categories in the Employer
4 Information Report EEO-1:

5 (1) number of male employees;

6 (2) number of female employees;

7 (3) average annualized salaries paid to male employees
8 and to female employees, in the manner most consistent with
9 the employer's compensation system, within each major job
10 category;

11 (4) information on performance payments, benefits, or
12 other elements of compensation, in the manner most
13 consistent with the employer's compensation system, if
14 requested by the Director as part of a determination as to
15 whether these elements of compensation are different for
16 male and female employees;

17 (5) average length of service for male and female
18 employees in each major job category; and

19 (6) other information identified by the business or by
20 the Director, as needed, to determine compliance with items
21 specified in paragraph (1) of subsection (c).

22 (i) Access to data. Data submitted to the Director related
23 to equal pay registration certificates or otherwise provided by
24 an employer in its equal pay compliance statement under
25 subsection (c) are private data on individuals or nonpublic
26 data with respect to persons other than Department employees.

1 The Director's decision to issue, not issue, revoke, or suspend
2 an equal pay registration certificate is public data.

3 (j) Penalty. The Department shall impose on any business
4 that does not obtain an equal pay registration certificate as
5 required under this Section, or whose equal pay registration
6 certificate is suspended or revoked after a Department
7 investigation, a civil penalty in an amount equal to 1% of the
8 business's gross profits.

9 Falsification or misrepresentation of information on an
10 application submitted to the Department shall constitute a
11 violation of this Act.

12 (k) Whistleblower protection. As used in this subsection,
13 "retaliatory action" means the reprimand, discharge,
14 suspension, demotion, denial of promotion or transfer, or
15 change in the terms and conditions of employment of any
16 employee of a business that is taken in retaliation for the
17 employee's involvement in a protected activity.

18 (1) A business shall not take any retaliatory action
19 against an employee of the business because the employee
20 does any of the following:

21 (A) Discloses or threatens to disclose to a
22 supervisor or to a public body an activity, inaction,
23 policy, or practice implemented by a business that the
24 employee reasonably believes is in violation of a law,
25 rule, or regulation.

26 (B) Provides information to or testifies before

1 any public body conducting an investigation, hearing,
2 or inquiry into any violation of a law, rule, or
3 regulation by a nursing home administrator.

4 (C) Assists or participates in a proceeding to
5 enforce the provisions of this Act.

6 (2) A violation of this subsection (k) may be
7 established only upon a finding that (i) the employee of
8 the business engaged in conduct described in paragraph (1)
9 of this subsection and (ii) this conduct was a contributing
10 factor in the retaliatory action alleged by the employee.
11 There is no violation of this Section, however, if the
12 business demonstrates by clear and convincing evidence
13 that it would have taken the same unfavorable personnel
14 action in the absence of that conduct.

15 (3) The employee of the business may be awarded all
16 remedies necessary to make the employee whole and to
17 prevent future violations of this Section. Remedies
18 imposed by the court may include, but are not limited to,
19 all of the following:

20 (A) Reinstatement of the employee to either the
21 same position held before the retaliatory action or to
22 an equivalent position.

23 (B) Two times the amount of back pay.

24 (C) Interest on the back pay.

25 (D) Reinstatement of full fringe benefits and
26 seniority rights.

